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Jeffrey H. Wood
Acting Assistant Attorney General
U.S. Department of Justice
Environmental and Natural Resources Division
P.O. Box 7611
Washington, DC 2004-7611

Submitted via email to: pubcomment-ees.enrd@usdoj.gov and frederick.phillips@usdoj.gov

April 18, 2018

In the Matter of: Bunker Hill Superfund Site, Kellogg, Idaho—Administrative Settlement Agreement and Order on Consent for Response Action by Bunker Hill Mining Corp., D.J. Ref. No. 90-11-3-128/18

Dear Mr. Wood:

The Kootenai Environmental Alliance (KEA), Spokane Riverkeeper (SR), and Idaho Conservation League (ICL) are nonprofit environmental organizations that collectively represent thousands of supporters in Idaho and Washington who maintain a deep interest in protecting and restoring the clean air, clean water, and healthy, thriving public lands unique to both states. Many of our supporters have been and continue to be impacted to this day by the mining contamination leftover from decades of mining pollution in Idaho's Silver Valley.

Some of the mining companies responsible for the health risks and environmental degradation associated with the mining contamination in the Coeur d'Alene Basin Superfund Site went bankrupt or simply refused to take responsibility, leaving Idaho, Washington, and local communities with mine waste and contamination that will never be remediated. Moreover, some of these mining companies left the Silver Valley without paying the multi-million dollar bill for cleanup and restoration. And now, U.S. taxpayers pay to clean up and restore the mess and contamination left by the mining companies. It is no surprise given this history that the public is skeptical and concerned by the prospect of the United States Government releasing a potential new owner of the Bunker Hill Mine from full CERCLA liability.

On April 2, 2018, our organizations submitted joint comments regarding this matter at the Bunker Hill Superfund Site. On behalf of KEA, SR, and ICL, we now submit the following Additional Joint Comments attached below regarding the Bunker Hill Superfund Site Administrative Settlement Agreement and Consent Decree.

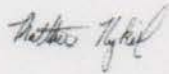
Joint Comments

Bunker Hill Superfund Site—Settlement Agreement and Order on Consent

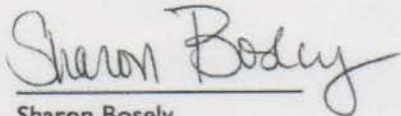
Matt Nykiel will function as the point person for these joint comments. If you have any questions regarding our comments or if we can provide you with any additional information on this matter, please do not hesitate to contact him at (208) 265-9565 or mnykiel@idahoconservation.org.

Thank you for your time and consideration.

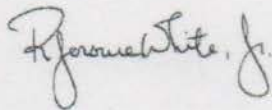
Sincerely,



Matthew Nykiel
Conservation Associate
Idaho Conservation League



Sharon Bosely
Executive Director
Kootenai Environmental Alliance



Jerry White
Executive Director
Spokane Riverkeeper

Additional Joint Comments

Introduction

We wish to begin by thanking the U.S. Environmental Protection Agency and Department of Justice for coordinating an in-person meeting with our organizations. Following the submission of our first round of comments, EPA and DOJ extended the public comment period and responded to many of our questions and concerns during a meeting in Coeur d'Alene, Idaho this April.

We also wish to thank Bunker Hill Mining Corp. (BHMC) for reaching out to our organizations and coordinating a phone call to help address some of our questions and concerns as well.

In both cases, the discussions with EPA, DOJ, and BHMC were generous and helpful. We look forward to continuing this dialogue going forward.

However, despite these talks we continue to have serious concerns that the Administrative Settlement Agreement (ASA) and Consent Decree (CD) in this case do not fairly reimburse the United States for past environmental impacts caused by the Bunker Hill Mine, and that the ASA and CD fail to ensure that future operators of the Bunker Hill Mine will maintain sufficient finances to remediate all future mine waste and contamination and, ultimately, fully reclaim the Bunker Hill Mine.

As of the drafting of these Joint Comments, we are aware that there are ongoing negotiations regarding a side agreement that would require a timeline for BHMC to permit its water discharges and bonding commitments to ensure finances are sufficient to cover future remediation and reclamation. However, we are not aware of whether or not these negotiations have resulted in a signed agreement between EPA and the interested parties, securing these additional commitments associated with the ASA and CD. Accordingly, we submit the following comments, which reflect, as of yet, unresolved deficiencies and inadequacies in the ASA and CD.

Unpaid Costs of Past Environmental Degradation

Neither the ASA nor the CD provide for payment for any and all of the environmental degradation that resulted from Placer Mining Company's operation of the Bunker Hill Mine, nor the environmental degradation caused by the Bunker Hill Mine that was not already addressed in previous CERCLA settlements. This is an oversight and addressing this issue in the ASA and CD or in a side agreement would more adequately address the public interest.

Unfortunately, with only a 30-day public comment period, we are not aware of any interested party that was able to gather the information or conduct the analysis necessary to understand the environmental impacts that occurred as a result of Placer Mining Company's operation of the Bunker Hill Mine. Given the current owner's history of mining practices and mine maintenance at the Bunker Hill Mine, or lack thereof, and the age and state of repair of the Central Treatment Plant tasked with treating the acid mine drainage from the Bunker Hill Mine, we suspect there is a reasonable likelihood that the environment may have been negatively impacted and impaired by Placer Mining Company's activity or inaction as owner of the Bunker Hill Mine. More information and analysis would be helpful in determining the extent and scope of these environmental impacts.

An adequate ASA and CD would address any and all environmental impacts from the Bunker Hill Mine through mitigation programs or supplemental environmental projects (SEP) in the area surrounding the Bunker Hill Mine. We recommend EPA, DOJ, and interested parties agree to mitigation and/or SEPs to adequately account for any and all environmental impacts in this regard.

No Financial Assurance for Future Cleanup Costs and Mine Reclamation

The ASA and CD should include provisions requiring that any new owner of the Bunker Hill Mine issue bonds, within a reasonable period of time, that set aside sufficient funds to pay for remediating all future mining contamination and the full reclamation of the mine.

As drafted, neither the ASA nor the CD provide financial assurances for future cleanup costs and mine reclamation. Given that the ASA and CD, in tandem, release BHMC from the full scope of CERCLA liability for past mining contamination, it is unreasonable, unfair, and unjust that the ASA and CD do not protect the United States from the risk that BHMC or any subsequent owner of Bunker Hill Mine may not maintain the finances to fully cleanup and reclaim the mine. Indeed, the history of Idaho's Silver Valley itself is a testament to the necessity of such assurances.

We are encouraged that it appears a side agreement may be reached that includes bonding for future remediation and reclamation. However, we would strongly recommend that any such side agreement include a number of specific details and provisions, including but not limited to:

1. Creating a remediation and reclamation plan that describes the actions necessary to fully remediate and reclaim the Bunker Hill Mine;
2. Including in the remediation plan how acid mine drainage would be dealt with and paid for after the closure and reclamation of the mine;
3. Using this remediation and reclamation plan to determine the total amount of money necessary to set aside in bonds to fully implement the plan;
4. Specifying the form the bonds would take (i.e. cash, insurance, etc.);
5. Specifying the entity that would hold the bonds; and
6. Creating a mechanism that would allow the bond requirements to be regularly reevaluated and readjusted to reflect new information and circumstances going forward.

Given the history of Idaho's Silver Valley and the complexity of a mine that's been operated for over a century and includes over 100 miles of underground tunnels, the bonding recommendations above are reasonable requirements that should be incorporated to protect public health, the environment, and the overall public interest in this case.

No Deadlines for Permitting the Water Discharged by the Bunker Hill Mine

Finally, the ASA and CD fail to set deadlines or a timeline that determine when and how BHMC or a future owner of the Bunker Hill Mine must apply for and permit water discharges from the mine, according to the NPDES program of the Clean Water Act. Setting these requirements is critical and would improve these draft agreements.

We are encouraged to hear that a side agreement to the ASA and CD may include such deadlines or a timeline. Until a provision to this effect is agreed to and incorporated as a signed provision

within or associated with the ASA and CD, we recommend that the parties work toward improving the ASA and CD in this way.